IN THE HIGH COURT OF JUDICATURE OF BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 6948 of 2005

Shri Rameshbai Himmatlal Shah .. Petitioner

versus

Shri Harshad Suresh Rana .. Respondent

...

Mr.J. Shekhar for the petitioner.

Mr.Suresh Gole for the respondent.

CORAM : D.G. KARNIK, J

DATED : 1st March 2006.

P.C.:

1. Heard learned counsel for the parties.

2. This Writ Petition is directed against the order dated 12th September 2005 passed by the learned 8th Adhoc Additional District Judge dismissing the petitioner’s appeal bearing MCA No.233 of 2005.

3. The respondent filed a suit against the petitioner for injunction. In the suit, he made an application for interim injunction. The trial court found that the respondent was in possession of the property and therefore granted injunction. The appellate court has also found that the respondent was in possession of the property under a registered sale deed and has therefore granted an interim injunction. The finding that the respondent was in possession of the property is a possible finding of fact which is not shown to be perverse. In the absence of any perversity, challenge to the finding of fact in a writ jurisdiction cannot be entertained. Hence, Writ Petition is rejected.

4. Learned counsel for the petitioner submits that there is a scope for settlement between the parties if a mediator is appointed. Petitioner is free to move the trial court in accordance with the provisions of section 89 of the Code of Civil Procedure.

(D.G. KARNIK, J)